

### **REMARKS/ARGUMENTS**

These remarks are made in response to the final Office Action of February 14, 2011 (Office Action). As this response is filed within the three-month statutory period, no fee is believed due. However, the Examiner is expressly authorized to charge any deficiencies to Deposit Account No. 14-1437.

### **Claim Rejections – 35 USC §§ 102 & 103**

Claims 1, 4-7, 10, and 27-28 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Published Patent Application 2005/0065935 to Chebolu, *et al.* (hereinafter Chebolu).

Applicant respectfully disagrees with the rejections and thus has not amended the claims to overcome the art rejections.

### **Applicant's Invention Predates Chebolu**

Applicant submits that Chebolu is not available as a prior art reference because Applicant's invention predates the September 16, 2003 effective date of Chebolu. In the Office Action it is asserted that Applicant's previous response failed to provide evidence of Applicant's conception. Applicants request reconsideration in view of the documents attached hereto and labeled Exhibits A-H.

These documents were referenced by Applicant in their previous response. However, they were not received by the Office for consideration. Accordingly Applicant submits that submission of these documents at this time is not improper, as their submission now is intended to supplement Applicant's prior assertions that Chebolu is not available as a reference against Applicant's invention.

As noted in Applicant's prior response, Applicant conceived of his invention at least as early as January 29, 2003, and actively pursued its reduction to practice from a date prior to the effective date September 16, 2003 of Chebolu. In support of this assertion, Applicant submitted the Declaration filed on December 26, 2010, attached

hereto. The Declaration provided sworn testimony of Applicant's conception at least as early as January 29, 2003 and continuing diligence from a time prior to the effective date September 16, 2003 of Chebolu to the filing of the instant Application on October 17, 2003.

In further support of this Declaration and as evidence of Applicant's conception, Applicant submits herewith a copy of Confidential Invention Disclosure No. BOC8-2003-0020 (Exhibit A), entitled "Customized Microsoft Service Control GUI" (hereinafter Invention Disclosure). The Invention Disclosure was written on January 29, 2003 and was submitted on January 31, 2003 by Applicant to an intellectual property (IP) professional employed by the assignee of Applicant's invention, International Business Machines Corporation (hereinafter IBM).

Exhibit A explicitly describes Applicant's invention. The written description provided in the Invention Disclosure is clear evidence of Applicant's conception of the claimed subject matter at least as early as January 29, 2003.

Exhibit A is an IBM confidential disclosure form. It is a standardized document that, according to established IBM procedures, is used by IBM inventors to document the conception of an invention. Strictly-followed internal procedures established by IBM govern the use of all such confidential disclosure forms. One aspect of IBM's established procedures governing the use of such confidential disclosure forms is that no substantive modifications can be made to a confidential disclosure after it has been submitted to an IBM Attorney/IP Professional. Rather, any changes are documented as a separate, supplemental form.

The written description, drawings, and each of the claims of the Application were prepared based upon the contents of Exhibit A. Moreover, according to IBM's established procedures governing the use of such disclosures, the Applicant reviewed the Application prior to its submission to the U.S. Patent and Trademark Office in order to ensure that the claims and written description contained therein were fully supported by the contents of Exhibit A.

As noted by Applicant in his previous response, Applicant does not have to prove diligence from the writing and submission of the Invention Disclosure to the filing date of the instant application – Applicant must only demonstrate diligence from a time just prior to the effective date of Chebolu or September 16, 2003. Applicant submits that Applicant clearly exercised due diligence from prior to the effective date September 16, 2003 of Chebolu to the date October 17, 2003 that the instant Application was filed. As expressly affirmed in the Declaration, Applicant from conception through the filing of the Application, worked diligently toward a constructive reduction to practice of the invention, first with IBM's own in-house IP professionals, and then with outside counsel retained by IBM to prepare and file the Application.

In support of Applicant's assertion of diligence, Applicant submits herewith the following documents showing Applicant's activities culminating in the filing of the instant Application on October 17, 2003:

- (1) Exhibit "B" – a patentability search report dated March 22, 2003;
- (2) Exhibit "C" – an email letter dated April 11, 2003 from inventor Keith Thuerk, commenting on documents found as a result of the patentability search;
- (3) Exhibit "D" – a letter from IBM instructing outside counsel to prepare the Application based on the Invention Disclosure, dated April 15, 2003;
- (4) Exhibit "E" – a letter from outside counsel confirming receipt of instructions, dated April 17, 2003;
- (5) Exhibit "F" – an email letter from outside counsel enclosing the initial draft Application for inventor's review, dated October 14, 2003;
- (6) Exhibit "G" – an email letter from Inventor Keith Thuerk commenting on the draft Application, dated October 15, 2003; and
- (7) Exhibit "H" – an email letter from outside counsel enclosing the final draft Application together with Declaration and Assignment for the inventor to sign, dated October 16, 2003.

Outside counsel prepared the Application from the date that counsel received instructions from its client IBM on April 15, 2003, to October 14, 2003 when a first draft of the application was forwarded to the inventor for review. This time period is not unreasonable and denotes reasonable diligence. The preparation of the instant application was consistent with long-established professional practices, according to which cases are prepared on a first-in, first-out basis unless a particular application is associated with a bar date; those applications associated with bar dates are granted priority within the work queue. Outside counsel followed this professionally-accepted practice in preparing the Application in this case. Applicants diligently cooperated with outside counsel to prepare the Application, promptly responding to requests for review of the Application and requests for providing documents.

Accordingly, in view of the previously submitted declaration and content of Exhibits A-H, Applicant respectfully submits that Applicant's invention predates the effective date of Chebolu. Applicant therefore respectfully requests withdrawal of Chebolu as a reference.

#### *The Claims Define Over Chebolu*

As discussed above, Chebolu is not available as a prior art reference. Even assuming that Chebolu is a prior art reference, Applicant believes that the present invention defines over Chebolu as discussed below.

With respect to claim 1, Applicants submit that Chebolu fails to disclose, explicitly or inherently, establishing a plurality of system service profiles based on functional roles of users.

Chebolu is directed to systems and methods for controlling access to internet sites. For example, Chebolu discloses a method including the steps of creating a configuration profile for a user to control computer access for the user, specifying particular applications that the user is to be denied access to, identifying a current user of the computer, intercepting a command from the user to access a computer application, and

processing the command is access is not prohibited to the user, else not processing the command. (See FIG. 2, steps 210-270.) In particular, Chebolu discloses that access is prohibited or allowed based on a profile associated with the user that defines the level of access a particular user will have. (See, e.g., paragraphs [0054]-[0054].) In some cases, the profile associated with a user can be based on a pre-defined profile. For example, a predefined set of restrictions can be used to setup the profile for a child, a teen, or an adult user. (See, e.g., paragraph [0091].)

Arguably, the setup of these pre-defined profiles in Chebolu discloses establishment of system service profiles that each represent a customized subset of the system services. However, the pre-defined profiles of Chebolu are not based on the functional roles of users. That is, the profiles are not based on the role of users with respect to providing or maintaining system services. Rather, Chebolu discloses that profiles are defined based on what content is to be presented to users using the system services. For example, Chebolu explicitly notes that the problem being addressed is how to improve upon existing parental control software applications. (See paragraphs [0004]-[0005].) In particular, Chebolu discloses that the profiles that are defined are based on age restrictions, content restrictions, and content source restrictions. As noted in paragraph [0091], the predefined profiles are configured to provide different limits for child users, teen users, and adult users. However, Chebolu fails to disclose or suggest that the profiles are based on a functional role of the user with respect to the system. In contrast, claim 1 explicitly recites that the plurality of system service profiles are based on functional roles of users.

Further, even assuming that the pre-defined profiles of Chebolu are based on the functional roles of users, Applicants submit that Chebolu fails to disclose a method including the steps of identifying a user and at least one functional role associated with the user, determining the system service profile associated with the at least one functional role, and determining the system services to be displayed based on the determined system service profile. In the Office Action, it is asserted that Chebolu's disclosure of

identifying a system user and utilizing the user profile to determine whether or not to provide access is equivalent to these steps. Applicant respectfully disagrees.

As described above, Chebolu discloses a system and method in which restrictions for users are defined by generating a profile for each user. Access to content or an application is provided as follows. First, upon receipt of a request, the identity of a user is determined. Second, the profile for the user is retrieved. Third, the profile is analyzed to determine restrictions for the user. Finally, based on these restrictions, a decision on whether or not to provide access is made based on the restrictions. However, this process fails to disclose certain aspects of claim 1.

In particular, Chebolu fails to disclose the step of ascertaining a functional role associated with the user and thereafter retrieving a profile based on the functional role. As described above, Chebolu discloses that the profile is directly associated with the user. In response to a request, the profile associated with the user is determined. However, nowhere does Chebolu disclose or suggest an intermediate step of ascertaining a functional role of the user in order to determine the profile to retrieve. Rather, as described above, the profile is directly associated with a user.

Accordingly, Chebolu fails to disclose or suggest each and every element of Claims 1 and 27-28. Applicants therefore respectfully submit that Claims 1 and 27-28 define over Chebolu. Furthermore, as each of the remaining claims depends from Claim 1 while reciting additional features, Applicants further respectfully submit that the remaining claims likewise define over Chebolu.

Applicants thus respectfully request that the claim rejections under 35 U.S.C. §§ 102 & 103 be withdrawn.

**CONCLUSION**

Applicant believes that this application is now in full condition for allowance, which action is respectfully requested. Applicant requests that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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